

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

FRANCENE LORRAINE TRUJILLO,

Plaintiff,

v.

No. CV 20-167 CG

ANDREW SAUL,
Commissioner of the
Social Security Administration,

Defendant.

**ORDER GRANTING UNOPPOSED MOTION TO AWARD ATTORNEY FEES
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER is before the Court on Plaintiff's *Motion for Attorney's Fees*

Pursuant to the Equal Access to Justice Act, 28 U.S.C.A. § 2412 (West) With Supporting Memorandum (the "Motion"), (Doc. 36), filed June 16, 2021; and Commissioner Andrew Saul's *Response to Plaintiff's Motion for Attorney's Fees Pursuant to the Equal Access to Justice Act*, (the "Response"), (Doc. 39), filed June 29, 2021. In his Response, the Commissioner "notifies the Court that he does not oppose th[e] [M]otion." *Id.* at 1. The Court, having reviewed the parties' briefing and noting the Motion is unopposed, finds the Motion is well-taken and shall be granted.

IT IS THEREFORE ORDERED that Plaintiff be awarded \$6,068.00 in attorney fees pursuant to EAJA, 28 U.S.C. § 2412, made payable to Plaintiff but mailed to Plaintiff's attorney. See *Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's

counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Carmen E. Garza".

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE